

**Introduced by Senators Escutia and Bowen
(Coauthors: Senators Alarcon and Figueroa)**

February 22, 2005

An act to add Article 11 (commencing with Section 905) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as introduced, Escutia. Telecommunications: consumer protection.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Pursuant to existing law, the commission adopted a general order applicable to all commission-regulated telecommunications utilities known as the telecommunications consumers' Bill of Rights.

This bill would state the intent of the Legislature to establish consumer protections that are at a minimum, as protective as those originally adopted by the commission in the telecommunications consumers' Bill of Rights. The bill would require that the commission, by July 1, 2006, develop and enforce consumer protection rules for telecommunications service, including mobile telephony services, as defined, that achieve certain policies and meet specified requirements. The bill would additionally require that the commission, by July 1, 2006, develop and enforce consumer protection rules for charges for noncommunications services on telephone corporation billings, that meet specified requirements.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Certain provisions of this bill would be part of the act and an order or other action of the commission would be required to implement

certain of the provisions. Because a violation of the bill's provisions or of an implementing order or decision of the commission would be a crime, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 11 (commencing with Section 905) is
2 added to Chapter 4 of Part 1 of Division 1 of the Public Utilities
3 Code, to read:

4
5 Article 11. Telecommunications Bill of Right
6

7 905. (a) It is the intent of the Legislature to establish
8 consumer protections that are at a minimum, as protective as
9 those originally adopted by the commission in Decision
10 04-05-057.

11 (b) For purposes of this section, "mobile telephony services"
12 means commercially available interconnected mobile phone
13 services that provide access to the public switched telephone
14 network (PSTN) via mobile communication devices employing
15 radiowave technology to transmit calls, including cellular
16 radiotelephone, broadband Personal Communications Services
17 (PCS), and digital Specialized Mobile Radio (SMR). "Mobile
18 telephony services" does not include mobile satellite services or
19 mobile data services used exclusively for the delivery of
20 nonvoice information to a mobile device.

21 (c) The commission shall, by July 1, 2006, develop and
22 enforce consumer protection rules for telecommunications
23 service, including mobile telephony services, that achieve all of
24 the following policies:

1 (1) A consumer has a right to receive clear and complete
2 information about rates, terms, and conditions for available
3 products and services, and to be charged only according to the
4 rates, terms, and conditions to which the consumer has agreed.

5 (2) A consumer has a right to select services and vendors, and
6 to have the consumer's choices respected by telecommunications
7 service providers.

8 (3) A consumer has a right to personal privacy, to be protected
9 from unauthorized use of the consumer's records and personal
10 information, and to reject intrusive communications and
11 technology.

12 (4) A consumer has a right to participate in public policy
13 proceedings, to be informed of his or her rights and what
14 agencies enforce those rights, and to have effective recourse if
15 his or her rights are violated.

16 (5) A consumer has a right to accurate and understandable
17 bills for products and services authorized by the consumer, and to
18 fair, prompt, and courteous redress for problems the consumer
19 encounters.

20 (6) A consumer has the right to be treated equally with all
21 other similarly situated consumers, free of prejudice or
22 disadvantage.

23 (7) A consumer has a right to safety and security of person and
24 property.

25 (d) The rules adopted by the commission pursuant to
26 subdivision (c) shall include all of the following requirements:

27 (1) A telephone corporation shall disclose its rates, terms, and
28 conditions of service and, upon request, provide its customers
29 with a complete explanation of the charges comprising the
30 customer's bill.

31 (2) A telephone corporation shall make no statement about
32 rates and services that is deceptive, untrue, or misleading.

33 (3) A telephone corporation shall provide a customer with
34 written confirmation of every order for service and a written
35 copy of each contract between the telephone corporation and the
36 customer. A customer may cancel, without termination fees or
37 penalties, any new service or contract for service within 30 days
38 after the new service is initiated.

39 (4) Every advertisement of the price, rate, or unit value of a
40 prepaid calling card or prepaid calling service shall include a

1 disclosure of any geographic limitation on the advertised price,
2 any minimum charges, any expiration policies, and any relevant
3 fees or surcharges. If any language other than English is used in
4 the advertising or promotion of the prepaid calling card or
5 prepaid calling service the disclosure shall be in that language.

6 (5) A telephone corporation may not require a deposit to
7 establish or reestablish service unless a customer is unable to
8 demonstrate acceptable credit. No deposit imposed by a
9 telephone corporation may exceed twice the estimated monthly
10 bill for basic service. Every deposit shall be refunded after one
11 continuous year of timely payments for basic service by the
12 customer, and not later than 30 days after basic service is
13 discontinued.

14 (6) Every telephone corporation billing statement shall be
15 clearly organized and may only contain charges for products and
16 services which have been authorized by the customer. All
17 mandated government taxes, surcharges, and fees required to be
18 collected from customers and to be remitted to federal, state, or
19 local governments shall be separately listed and identified as
20 “government fees and taxes.” This section of the billing shall not
21 include any charges for which the telephone corporation is not
22 required to remit the moneys to the government.

23 (7) A telephone corporation shall credit payments effective the
24 business day payments are received by the telephone corporation
25 or its agent. No billing shall include any previously unbilled
26 charge for intrastate service furnished more than three months
27 immediately preceding the date of the billing, except that the
28 billing may include roaming charges for mobile telephony
29 services on a system other than the subscriber’s home system for
30 up to four months immediately preceding the date of the billing,
31 and the billing may include charges for collect, third-party, and
32 calling card calls for up to the five months immediately
33 preceding the date of the billing. Telephone corporations shall
34 prorate charges for basic service for partial months. Billings shall
35 be based on the rates in effect at the time the service was used.

36 (8) A telephone corporation shall provide reasonable notice to
37 all affected customers of every proposed change in the
38 customer’s service agreement or any contract change that may
39 result in higher rates or charges or more restrictive terms or

1 conditions and any service agreement or contract change may not
2 be implemented without the express consent of the customer.

3 (9) A telephone corporation shall provide written notice to any
4 customer whose payments are overdue not less than seven
5 calendar days prior to terminating service for nonpayment. Basic
6 exchange service may not be disconnected on any day that
7 telephone corporation representatives are not available to assist
8 customers.

9 (10) A telephone corporation shall investigate a customer
10 billing dispute and reach a determination and communicate that
11 determination to the customer within 30 days. During the
12 investigation of the customer billing dispute, no late charge or
13 penalty may be collected from the customer, the charge in
14 dispute may not be sent to collection, and no adverse credit
15 report may be filed as to the customer. Disputes shall be resolved
16 pursuant to California law and the forum for adjudication of
17 disputes shall be the county in California in which the customer
18 receives the billing or the customer's primary place of use of the
19 service.

20 (11) A telephone corporation shall designate one or more
21 representatives to be available during regular business hours to
22 accept Consumer Affairs Branch inquiries from the commission.
23 The telephone corporation shall provide all documents and
24 information requested by the branch.

25 (12) A telephone corporation shall issue an identification card
26 to every employee who has occasion to enter the premises of
27 customers on behalf of the telephone corporation. No telephone
28 corporation shall misrepresent, or allow its employees to
29 misrepresent, its association or affiliation with the corporation
30 when soliciting or implementing the customer's agreement to
31 purchase products or services.

32 (13) A telephone corporation shall provide every residential
33 customer, and every mobile telephony handset that is
34 technologically compatible with its system, with access to the
35 9-1-1 emergency dialing system regardless of whether an account
36 has been established.

37 (e) The commission shall, by July 1, 2006, develop and
38 enforce consumer protection rules for charges for
39 noncommunications services on telephone corporation billings,
40 that include all of the following:

(1) A telephone corporation billing may not contain noncommunications related charges unless the telephone corporation obtains the express written authorization of the customer and the telephone corporation uses a Personal Identification Number (PIN) or other equally reliable security procedure approved by the commission, that is designed to prevent persons or entities other than the customer and individuals authorized by the customer, from placing charges.

(2) A telephone corporation shall take reasonable precautions to screen vendors and billing agents before agreeing to provide billing services for noncommunications related charges by the vendor or billing agent, in order to screen out unreliable or untrustworthy business entities.

(3) A telephone corporation shall not disconnect basic telephone service for nonpayment of noncommunications related charges.

(4) A telephone corporation shall separately identify all noncommunications related charges on every billing, with clear and concise descriptions of the product or service for which a charge has been imposed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.